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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,927	10/15/2003	Todd F. Mozer	016757-000314US	7462

7590 11/02/2005

Fountainhead Law Group
Suite 509
900 Lafayette Street
Santa Clara, CA 95050

EXAMINER	
AZAD, ABUL K	
ART UNIT	**PAPER NUMBER**
2654	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/686,927	MOZER ET AL.	
	Examiner	Art Unit	
	ABUL K. AZAD	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/23/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-35 are pending in this Office Action.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-35 of U.S. Patent No.6,665,639. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed language of claims 1-35 merely broadens the claimed subject matter of claims 1-35 of the patent 6,665,639.

It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969); the omission of a reference element whose function is not needed would be obvious to one skilled in the art.

Claims 1-35 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-104 of copending Application No.10/687,214. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed language of claims 1-35 merely broadens the claimed subject matter of claims 1-35 of the patent 6,665,639.

It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969); the omission of a reference element whose function is not needed would be obvious to one skilled in the art.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims , 11-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Stanford et al. (US 5,513,298).

As per claim 11, Stanford teaches, "a method of performing speech recognition across a network" comprising:

"providing, from a server to a first computer, set of data to recognize spoken utterances from corresponding limited sets of candidate utterance" (Fig. 1, element 108 and 110; first computer as electronic system and recognition clients as server);

"supplying different sets of said data from the server to the first computer to recognized different spoken utterances from corresponding limited sets of candidate utterances at different times in response to different user interaction (col. 6, lines 48-63).

As per claim 26, it is interpreted and thus rejected for the same reasons set forth in the rejection of claim 11.

As per claim 12, Stanford teaches, "wherein the first computer is connected to the server over an internet" (col.7, lines 1-15).

As per claim 13, Stanford teaches, "wherein the first and second information is downloaded from a internet web site" (col. 7, lines 1-15).

As per claim 14, Stanford teaches, "wherein the first computer is connected to the server over an intranet" (col. 7, lines 1-15).

As per claim 15, Stanford teaches, "wherein the first and second information is downloaded from a intranet web site" (col. 7, lines 1-15).

As per claim 16, Stanford teaches, "wherein the first computer is connected to the server over a local network" (col. 7, lines 1-15).

As per claim 17, Stanford teaches, "wherein the first computer includes a software recognition engine" (Fig. 1, element 108).

As per claim 18, Stanford teaches, "wherein the software recognition engine runs in a general purpose microprocessor" (Fig. 1, element 108).

As per claim 19, Stanford teaches, "wherein recognition is performed using speaker-independent speech recognition" (col. 5, lines 45-58).

As per claim 21, Stanford teaches, "prompting a user to input a first spoken utterance corresponding to first limited set of candidate utterances and prompting a user to input a second spoken utterance corresponding to a second limited set of candidate utterances" (col. 5, lines 32-36, in a voice response system, prompt is inherent).

As per claims 26-34, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 11-19 and 21

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 20 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanford et al. (US 5,513,298) as applied to claim 19 and 34 above, and further in view of Wang (US 5,583,964).

As per claims 6, 22, and 39, Stanford does not teach, "wherein said retrieved recognition programming information includes neural network weights". However, Wang teaches, recognition programming information could be neural network weights (col. 6, lines 21-41; reads on "the neural network co-processors of hybrid microprocessors may receive data from the microprocessor or any device attached to bus"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Wang's teaching in to Stanford invention because Wang teaches to provide a computing device which comprises at least one co-processor embedded in a microprocessor chip; this provides a significant reduction in the area needed to implement the computing device (col. 3, lines 58-62).

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599.** If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(571) 272-7602.**

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to: **(571) 273-8300.**

Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 31, 2005

Abul K. Azad
Primary Examiner
Art Unit 2654